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national farmers union

In Union is Strength

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National Farmers Union

Statement

to the

Canadian Grain Commission

on the subject of the

**1991 Review of Licensing and Security Provisions
of the
Canada Grain Act**

presented in

Saskatoon, Sask.

April 9, 1991



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INTRODUCTION:


As recently as four months ago, the Commission was seeking input from interested groups and organizations on the matter of regulations pertaining to grain shipments to the United States. On that occasion, it was stated that some members of the grain trade had requested exemptions from certain provisions of the Canada Grain Act. As a consequence, certain changes in regulation have been introduced.

The latest discussion paper circulated by the Commission indicates "farm organizations and other members of the grain industry have suggested the CGC review its role in licensing." The NFU was not one of those farm organizations requesting a review. We nonetheless welcome the opportunity of responding to your discussion paper.

THE ISSUES OF LICENSING:

The discussion paper provides several examples of areas of concern to the CGC and the industry in the licensing area.

It is noted that grain companies fall under the jurisdiction of the CGC "when they operate a facility ... or when they operate as a grain dealer purchasing western grain using Canada Grain Act grade names."



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We believe this is an essential approach to regulating the system in order to protect the legitimate interests of farmers. It must remain.

The Act provides the Commission with a great deal of discretionary power, before issuing a license, in assessing the ability of an applicant to provide necessary financial security. In our view, it is the Commission's responsibility and duty to appraise the credibility of all applicant licensees before licenses are issued.

Unlicensed operators who may, as indicated in the examples, "develop facilities for the cleaning and containerizing of special crops" are in such cases providing a custom or contract service to licensed dealers. In circumstances where this occurs, the licensed dealers would have purchased the crops in question and be held responsible for payment to producers and for selling such crops to buyers.

Unlicensed operators who provide such services, at the very least, should be required to register with the Commission and be issued a license restricted to the services they perform. If they later wish to enter into a fuller licensing arrangement, they should be required to apply for an upgraded license.

It is difficult to fully understand why licensees would complain to the Commission of difficulties in competing with non-licensees who operate in contravention of the Act while the Commission at the same time states it is difficult to obtain sufficient evidence to prosecute individuals for license infractions. The complaints of licensees must have some foundation in fact before they are turned over to the Commission for investigation.

Clearly what is demanded here is stronger - not weaker regulation. Where non-licensees are in contravention of the Act, they should be prosecuted as would be the case in other circumstances where individuals contravene the law. In no circumstances should contraventions be tolerated to the point where non-renewal by licensees would be considered as acceptable conduct.

The problem of improper reporting of month-end liabilities by licensees has unquestionably been the source of past problems that eventually surfaced when undercapitalized grain dealers collapsed and left farmers "holding the bag" for millions of dollars in losses.

The Commission will, for example, recall problems encountered with the collapse of Econ Consulting Ltd. which resulted in the loss of millions of dollars to both farmers and non-farm corporations. In that instance, the Federal Court of Appeal upheld the right of two farmers to sue the Commission on behalf of 78 farmers on the grounds that the Commission had failed to adequately police Econ.

The NFU has in past years criticized the Commission for exceeding the bounds of discretion in the multiplicity of grain dealers it licensed without, we felt, adequate financial security. Since the definition of what constitutes "adequate financial security" is a discretionary power, the Commission should after a number of years experience, be able to establish basic criteria.

There are currently 40 licensed grain dealers in the three prairie provinces compared with 53 in November 1986 - a net reduction of about 25%. Nationally, the number now stands at 55 compared with 62 in 1986. (See Appendix A) We note that 27 licensed dealers that were on the list in 1986 were no longer licensed in 1991. Of that number, 24 licensees were prairie grain dealers. Nationally, 19 new registrations appear on the current

grain dealers list that were not there in 1986. Only 10 new names of prairie firms appear.

This indicates that a large number of prairie dealers have either gone bankrupt, out of business or may now be operating as unlicensed dealers. Farmers should not need to be exposed to grain dealers who represent themselves as being trustworthy on the strength of having a CGC license. It is the Commission's duty to assure that they carry sufficient bond insurance to protect their clients and that they report their month-end inventories as required. Otherwise, they should stand the risk of having their licenses suspended. With current computer and FAX technology, this problem should be less than it may have been in past years.

On the question of issuing a license renewal without full documentation, this may need to be a discretionary power of the Commission, but the license should be considered temporary and with a definite understanding on a time frame for the receipt of full documentation. With only 55 licensed grain dealers nationwide, this should not present an insurmountable administrative problem. The Commission should have a pretty good idea of the track record of all its licensees and conduct itself accordingly. Bonding during the temporary licensing period should be mandatory.

When a license is not renewed by the Commission, it should continue to place ads in local and farm newspapers but should immediately issue a press release to cover the electronic media at the time the delicensing decision is made. Of course producers have a personal responsibility to always exercise caution to assure they are dealing with a reputable firm - but once having done that, they are unlikely to check every time thereafter a transaction is made. It must be presumed that when the Commission has once licensed a dealer this becomes a seal of approval on which also hangs the Commission's reputation.

We do not in general support a reduction in security requirements. Major grain companies have greater assets than do small grain companies and in theory may present less of a risk. On the other hand, their capital liabilities may also be much greater. When such companies deal in an open-market environment, size of their potential losses may also be greater.

In our view, an all-encompassing public bonding program should be considered for all licensees rather than have bonding as a hit-and-miss situation. Under such circumstances, the bonding authority would have to assess the financial viability of the licensee applicants and set the required security. By having all bonds handled by a single non-profit agency, premiums to the industry could be lowered once the indemnity funds were at a level sufficient to cover all likely situations based on historic experience in the industry. Premiums could be assessed in proportion to volumes handled.

On documentation issues, we believe every producer has the responsibility to assure that he receives the proper receipts for his product. To do otherwise is needless risk-taking and an invitation to disaster.

In summary, our responses to the discussions' questions for licensing review are as follows:

1. Re: objectives of the licensing system:

(a) The CGC should be responsible for licensing applicants that can provide sufficient evidence of their ability to operate legitimate businesses.

(b) We do not support fragmentation of the licensing function to provincial jurisdictions.

2. Are the current licensing requirements too strict?

No. On the basis of the number of defaults in recent years, the licensing requirements may be too slack and should be tightened up.

3. On the issue of the security system, any applicant licensed by the Commission should provide 100% coverage on the licensee's liabilities to producers that can be proven on the basis of cash purchase tickets, elevator receipts or grain receipts. On cash tickets, grain receipts and elevator receipts, security should be available for a period of at least 90 days. We realize some producers like to hold-off sales in the hopes of gaining a higher price but it is not a policy of our organization to facilitate speculative ventures. If producers wish security, they should press for the implementation of a more secure marketing system.

4. On the types of security that should be accepted, it should be primarily based on the type of publicly-operated non-profit bonding insurance referred to earlier.

5. In reference to the determination of financial ability requirements for licensing, every type should be considered in evaluating the viability of a licensee applicant including net worth line of credit and working capital.

6. Producers do have a responsibility for protecting their own interests. They should know to whom they are entrusting their product. In every case, they should obtain authorized documents and give preference of delivery only to licensed facilities.

7. On the matter of recovery of the cost of the CGC licensing program, this is a philosophical question that requires some thought. While a portion of the cost will be recovered from licensing, there is also the matter of the public interest to consider. Do persons who have need of police protection pay on a

fee-for-service basis? Should the policing function of the Commission be restricted by its fee collections?

The issue of cost-recovering can be taken to ridiculous ends. In short, the Commission must have the funding it requires to carry out its public duty in a responsible and authoritative manner.

In this regard, we are not fully aware of the possible implications to the Commission's operations of references made in the February 26, 1991 Budget Speech of Finance Minister Wilson.

Under the general topic of "Privatization and Crown Corporations," the Minister makes reference to the use of "Special Operating Agencies" and states the Canadian Grain Commission will be converted to this status.

This suggests that the Commission may be targeted to achieve full cost recovery in its operations. We are very conscious that in operations such as those performed by the Commission, the buck stops with the farmer, either directly or indirectly.

We may be labouring under the illusion that the nation has an interest in the contribution of agriculture to the economy in general and that the role of farmers extends beyond self-serving interests. Through the process of rational thought, we conclude that the Commission must be seen as serving the broader national interest as well as the interests of the industry in general. The cost of doing so must, therefore, be shared.

All of Which is Respectfully
Submitted by:

NATIONAL FARMERS UNION

APPENDIX A

Effective April 1, 1991
En date du 1^{er} avril 1991

LICENSED GRAIN DEALERS/
NÉGOCIANTS EN GRAINS TITULAIRES D'UNE LICENCE

Licensees/Titulaires de licence

Head Office/Siège Social

ADM Agri-Industries Ltd.	Windsor, Ontario
AgPro Grain Inc.	Surrey, B.C.
Agro Company of Canada Limited	Montreal, Quebec
Agro West Limited	Montreal, Quebec
Alberta Food Products, A Partnership of Canada	Toronto, Ontario
Packers Inc. and Pool Canola Holdings (1987) Ltd.	
Alberta Terminals Canola Crushers Ltd.	Edmonton, Alberta
Alberta Wheat Pool	Calgary, Alberta
B. C. Pea Growers Limited, The	Armstrong, B.C.
Best Cooking Pulses, Inc.	Portage la Prairie, Manitoba
Bunge of Canada Ltd./Bunge du Canada Ltée	Quebec City, Quebec
C. B. Constantini Ltd.	Vancouver, B.C.
CO-OP Atlantic	Moncton, New Brunswick
Canbra Foods Ltd.	Lethbridge, Alberta
Carquill Limited	Winnipeg, Manitoba
Central Grain Company Ltd.	Winnipeg, Manitoba
Certified Organic Products Inc.	Ituna, Saskatchewan
Chin Ridge Seed Processors Ltd.	Taber, Alberta
Chinook Grain Co. Ltd.	Didsbury, Alberta
Continental Grain Company (Canada) Limited	Winnipeg, Manitoba
Demeter Agro Corp.	Lethbridge, Alberta
Finora Canada Ltd.	Surrey, B.C.
Harder's Seed Service Ltd.	Plum Coulee, Manitoba
Heggie Grain Ltd., R.K.	Raymond, Alberta
Humboldt Flour Mills	Humboldt, Saskatchewan
International Grain Trade Canada Inc.	Surrey, B.C.
Linear Agra (Man.) Ltd.	Carman, Manitoba
Louis Dreyfus Canada Ltd.	Winnipeg, Manitoba
Manitoba Pool Elevators	Winnipeg, Manitoba
Naber Seed & Grain Co. Ltd.	Melfort, Saskatchewan
Northern Sales Co. Ltd.	Winnipeg, Manitoba
Palliser Grain Co. Ltd.	Calgary, Alberta
Parent Seed Farms Ltd.	St. Joseph, Manitoba
Parrish & Heimbecker, Limited	Winnipeg, Manitoba
Paterson & Sons Limited, N.M.	Winnipeg, Manitoba
Pioneer Grain Company, Limited	Winnipeg, Manitoba
Pioneer Grain Terminal Limited	Vancouver, B.C.
P S International Trading Ltd.	Vancouver, B.C.

Licensees/Titulaires de licence

Ray's Grain Sales Ltd.
Ritchie Patrick Agencies Inc.
O/A Viking Grain & Livestock Marketing
Roy Legumex Inc.
Sabourin Seed Service Ltd.
Saskatchewan Wheat Pool
Seedtec Ltd.
Shafer-Haggart Ltd.
Stow (1986) Ltd., R.T.
Stow Grain - A Division of Agro
Company of Canada Limited
United Grain Growers Limited
United Oilseed Products Inc.
Vanderveen Commodity Service Ltd.
Walker Seeds Ltd.
Weyburn Inland Terminal Ltd.
Wheat City Seeds Ltd.
Wilbur-Ellis Company of Canada Limited
Woodstone Foods Limited
XCAN Grain Ltd.

Head Office/Siège Social

Saskatoon, Saskatchewan

Viking, Alberta
St. Jean Baptiste, Manitoba
St. Jean Baptiste, Manitoba
Regina, Saskatchewan
Qu'Appelle, Saskatchewan
Vancouver, B.C.
Carman, Manitoba
Graysville, Manitoba

Winnipeg, Manitoba
Lloydminster, Alberta
Carman, Manitoba
Star City, Saskatchewan
Weyburn, Saskatchewan
Brandon, Manitoba
Vancouver, B.C.
Winnipeg, Manitoba
Winnipeg, Manitoba

Effective November 1, 1986
En date du 1^{er} novembre 1986

LICENSED GRAIN DEALERS/
TITULAIRES D'UN PERMIS DE NEGOCIANT EN GRAINS

<u>Licensees/Titulaires de permis</u>	<u>Head Office/Siège Social</u>
Agricultural Development Corporation of Saskatchewan	Regina, Saskatchewan
Agri-Darm Ltd.	Zenon Park, Saskatchewan
Agro Company of Canada Limited	Montreal, Quebec
Alberta Linseed Inc.	Medicine Hat, Alberta
Alberta Wheat Pool	Calgary, Alberta
Allstate Grain Company Ltd.	Surrey, B.C.
Arctic Grain Ltd.	Calgary, Alberta
Balfour Grain Ltd.	Winnipeg, Manitoba
Bergerco Canada Agriculture Ltd.	Moose Jaw, Saskatchewan
Bogoch Grain Inc.	Red Deer, Alberta
Brett-Young Seeds (Gilbert Plains) Ltd.	Gilbert Plains, Manitoba
Bunge of Canada Ltd./Bunge du Canada Ltee.	Quebec City, Quebec
C. B. Constantini Ltd.	Vancouver, B.C.
CO-OP Atlantic	Moncton, New Brunswick
Canadian Legume Marketing Services Ltd.	Renfrew, Ontario
CanMar Grain Inc.	Regina, Saskatchewan
Canbra Foods Ltd.	Lethbridge, Alberta
Cargill Limited	Winnipeg, Manitoba
Central Grain Company Ltd.	Winnipeg, Manitoba
Chinook Grain Co. Ltd.	Didsbury, Alberta
Chin Ridge Seed Processors Ltd.	Taber, Alberta
Continental Grain Company (Canada) Limited	Winnipeg, Manitoba
Cordite Chemicals Ltd.	Dugald, Manitoba
Demeter Agro (1977) Ltd.	Lethbridge, Alberta
Heggie Grain Ltd., R.K.	Raymond, Alberta
Humboldt Flour Mills (1986) Ltd.	Humboldt, Saskatchewan
KAPT-AL Services Ltd.	Tisdale, Saskatchewan
Keystone Grain Ltd.	Winkler, Manitoba
Linear Agra (Man.) Ltd.	Carman, Manitoba
Louis Dreyfus Canada Ltd.	Winnipeg, Manitoba
Manitoba Pool Elevators	Winnipeg, Manitoba
Market Access (1985) Inc.	Saskatoon, Saskatchewan
NARP Processors Ltd.	Sexsmith, Alberta
Newfield Seeds Limited	Nipawin, Saskatchewan
Nielsen Grain Ltd.	Innisfail, Alberta
Northern Sales Co. Ltd.	Winnipeg, Manitoba
Palliser Grain Co. Ltd.	Calgary, Alberta
Parent Seed Farms Ltd.	St. Joseph, Manitoba
Parrish & Heimbecker, Limited	Winnipeg, Manitoba
Paterson & Sons Limited, N.M.	Winnipeg, Manitoba
Pioneer Grain Company, Limited	Winnipeg, Manitoba

Licensees/Titulaires de permis

Premiere Grain Co. Ltd.
Prince Edward Island Grain Elevators Corporation
Ray's Grain Sales Ltd.
Reimer Seeds Ltd.
Ritchie Patrick Agencies Inc.
O/A Viking Grain & Livestock Marketing
Roy Legumex Inc.
Sabourin Seed Service Ltd.
Sandstra Bros. Transport Ltd.
Saskatchewan Wheat Pool
Shafer-Haggart Ltd.
Stow Ltd., R.T.
Stow Seed Processors Ltd.
Tyndall Grain Corp.
United Grain Growers Limited
United Oilseed Products Ltd.
Vanderveen Commodity Service Ltd.
Walker Seeds Ltd.
Westglen Farms Ltd.
Weyburn Inland Terminal Ltd.
Wheat City Seeds Ltd.
Wilbur-Ellis Company of Canada Limited

Head Office/Siège Social

Lethbridge, Alberta
Kensington, P.E.I.
Saskatoon, Saskatchewan
Winkler, Manitoba

Viking, Alberta
St. Jean Baptiste, Manitoba
St. Jean Baptiste, Manitoba
Red Deer, Alberta
Regina, Saskatchewan
Vancouver, B.C.
Carman, Manitoba
Graysville, Manitoba
Beausejour, Manitoba
Winnipeg, Manitoba
Lloydminster, Alberta
Elm Creek, Manitoba
Star City, Saskatchewan
Barrhead, Alberta
Weyburn, Saskatchewan
Brandon, Manitoba
Vancouver, B.C.

